



Department of Energy

Washington, DC 20585

August 9, 2002

Emily A. Spieler
Dean
Northeastern University School of Law
400 Huntington Avenue
Boston, MA 02115

Dear Dean Spieler:

Thank you for your letter of June 27, 2002, expressing the concerns of the Worker Advocacy Advisory Committee (WAAC) regarding implementation of Subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (EEOICPA). Secretary Abraham asked that I respond to your letter directly.

First, I would like to thank you and the Advisory Committee for your assistance. There are many difficult and challenging issues associated with implementation of this program and your thoughtful and constructive advice is much appreciated.

Since assuming the position of Assistant Secretary for Environment, Safety and Health in February 2001, implementation of EEOICPA has been my top priority. Much has been accomplished in the past six months. The Physicians Panel rule has been issued and fulfills the intent of Congress and the goal of the Secretary of Energy to help as many Department of Energy (DOE) workers as possible. We have begun discussions with the States on Memoranda of Agreements. These agreements could not be completed until the final rule was issued. We are confident these agreements will be in place quickly. The approximately 12,000 filed claims have been reviewed and prioritized for handling. We have established a network of site contacts who are working to locate employment, exposure and medical records for program adjudication. The physicians panels composed of independent occupational physicians expert in their knowledge of workplace exposures are ready to begin reviewing cases. The draft project plan that will guide all of our activities can now be finalized and will include, as recommended by the Committee, performance measures and evaluation criteria that are being developed by Office of Worker Advocacy staff and the WAAC subcommittee.

As the Advisory Committee has pointed out, much remains to be done. With respect to the Committee's recommendation for "one-stop shopping", DOE and the Department of Labor (DOL) have together taken steps to minimize the burden to workers to the extent we can under the statute. As the Committee knows, the statute mandates DOE and DOL programs that are quite different. To make it easier for our workers and their families to learn about the programs and get help filling out claim forms and locating records, DOE and DOL have established a network of resource centers at all major DOE sites. The resource center staff have information about the DOE and DOL programs as well as contact information for State workers'



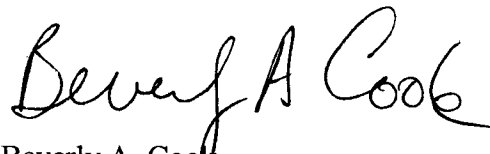
compensation programs. In addition, DOE and DOL have worked very hard over the past six months to coordinate our activities, to share data and to refine our processes. We will continue to work together cooperatively.

DOE most assuredly does have a plan to handle successful workers' compensation claims. When there is an identifiable current contractor with responsibility for accepting a claim that has received a positive finding of causation from a DOE physicians panel, the claim will be handled like all other successful workers' compensation claims. It is not clear that a single third party administrator would add any benefit to the existing workers' compensation programs. Each DOE contractor has a method in place for such claims; some use third party administrators, others handle claims and their administration directly. The contractor costs associated with administering workers' compensation programs are reimbursable under current contracts. However, different contracts have different provisions for handling these costs, and we are reviewing this issue with the DOE Procurement Office to ensure that our contractors are not penalized under the Subtitle D program. Similarly, it is also not clear that an ombudsman office is necessary. The Office of Worker Advocacy was created to perform the very role that is envisioned for the ombudsman office, specifically to assist claimants. Also, we intend to include provisions in the agreements with individual States addressing state assistance to claimants in understanding individual state eligibility and filing requirements.

The issue of mechanisms for payment of claims when there is no current contractor with responsibility for paying the claim remains a concern. We will continue to explore possible remedies with the WAAC, our General Counsel and the Congress to correct this inequity.

Again, I want to thank you and all the members of the Worker Advocacy Advisory Committee for your hard work and commitment to the EEOICPA program.

Sincerely,

A handwritten signature in black ink that reads "Beverly A. Cook". The signature is written in a cursive, flowing style.

Beverly A. Cook
Assistant Secretary
Environment, Safety and Health